

**Appl. No.** : 09/673,987  
**Filed** : January 8, 2001

### **REMARKS**

Claims 3, 5, 10, 13, 15, 18, 26-27, 31, 34, 36-37, and 41 have been cancelled. Claims 1, 9, 22, 23, and 32 have been amended. New claim 52 is added. Claims 1, 2, 4, 6-9, 11-12, 14, 16-17, 19-25, 28-30, 32-33, 35, 38-40, and 42-52 are now pending in this application. Support for the amendments is found in the existing claims and the specification as discussed below. Accordingly, the amendments do not constitute the addition of new matter. Applicant respectfully requests the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

#### **Rejection under 35 U.S.C. § 102**

Claims 1 and 2 are rejected under 35 U.S.C. § 102 (a), (b), and (e) as being anticipated by Comparative Example 1b of Barranx, et al. (US 5,763,468).

This ground of rejection is believed to be overcome by Applicants' amendment of claim 1 to recite that the agricultural composition includes a fertilizer. Support for the amendment is found in the present specification at page 4, lines 20-21, for example. The composition of Barranx, et al. does not include a fertilizer.

In view of Applicant's amendments, withdrawal of this ground of rejection is respectfully requested.

#### **Rejections under 35 U.S.C. § 103(a)**

Claims 1, 2, 4, 6-9, 11, 12, 14-17, 19, 21-25, 28-29, and 47-51 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Barranx, et al. and Richter (US 5,728,672).

This ground of rejection is overcome by Applicant's amendment as discussed above. Claims 1 and 22 have been amended to recite that the composition includes a fertilizer. As the teachings of both Barranx, et al. and Richter are drawn to cleaning compositions, it would have been non-obvious to add a fertilizer to the composition of either Barranx, et al. or Richter, taken alone or in combination.

In view of Applicant's amendment, withdrawal of the above ground of rejection is respectfully requested.

Claims 1, 2, 4, 6-9, 11, 12, 14-17, 19-25, 28-30, 32, 33, 35, 38-40, 42, 43, and 47-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Pullen et al. (US 5,753,593) and Evans, et al. (US 5,948,731)

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Pullen et al. are cited for their teaching on the use of terpene oils in combination with a surfactant as an aquatic herbicidal agent. Evans, et al. is cited for the teaching that fatty acid salts were known herbicidal agents.

Regarding Applicant's composition claims and related methods (claims 1, 2, 4-9, 11-12, 14-17, 19, 21-25, 28-30, 35, 38-43 and 47-51), this ground of rejection is believed to be overcome by amendment of claims 1 and 22 to recite that a fertilizer is present in the composition. Support for the amendment is found on page 4, lines 20-21 as discussed above. Neither Pullen, et al. nor Evans, et al. teach the use of a fertilizer in the herbicidal compositions. Furthermore, neither Pullen, et al. nor Evans, et al., either alone or in combination, provide a motivation to add a fertilizer to their herbicidal compositions. As the teachings of Pullen, et al. and Evans, et al. are directed at adversely affecting plants, there would be no motivation to add a fertilizer.

Regarding claims 32-33, claim 32 has been amended to specify that the desirable plants are crop plants, forest plants, lawn plants, plantation plants or orchard plants. Support for this amendment is found on page 14, lines 28-30. In contrast to the disclosure of Pullen, et al., Applicant's claimed invention is directed to terrestrial plants. As discussed in the previous response, Pullen, et al. teach the use of an aquatic herbicidal composition which acts by reducing the surface tension of the water causing the target aquatic vegetation to sink (col. 2, lines 37-38). A second mode of action taught by Pullen, et al. is the removal of the wax cuticle on the surface of the aquatic vegetation. This second mode of action also assists in causing the target aquatic vegetation to sink (col. 3, lines 7-8). Applicant asserts that both of these methods of actions are specific to aquatic vegetation and do not teach or suggest a method for eliminating or controlling unwanted terrestrial vegetation.

Turning to Evans, et al. this patent relates to the use of fatty acid salts in herbicidal compositions. However, Evans, et al. do not teach or suggest the combination of fatty acid salts with monoterpene alcohols for application to a terrestrial plant as presently claimed. While Pullen, et al. teach the combination of terpene oils with a surfactant, Pullen, et al. is directed to treatment of aquatic plants as discussed above and is silent regarding treatment of terrestrial plants.

New claim 52 is believed to be free of this ground of rejection as neither of the cited references teaches a combination of a monoterpene alcohol portion comprising a pine oil in

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combination with a fatty acid soap in a method of use as a pesticide. Support for the new claim is found in composition claim 21 and in the specification at page 21, Table 2.

In view of Applicant's amendments and arguments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

### **CONCLUSION**

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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